

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|--|--|-------------------------------|---|---|---------------------------------|
| Investigator: Dane Buchanan | Team: Team # 4 | CCRB Case #: 201111033 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Tuesday, 08/23/2011 7:45 PM | Location of Incident: in front of § 87(2)(b) and en route to the 46th Precinct stationhouse | Precinct: 46 | 18 Mo. SOL 2/23/2013 | EO SOL 2/23/2013 | |
| Date/Time CV Reported Fri, 08/26/2011 1:30 PM | CV Reported At: CCRB | How CV Reported: In-person | Date/Time Received at CCRB Fri, 08/26/2011 1:30 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|------------------------|--------|--------|---------|
| 1. Officers | | | |
| 2. SGT Raul Maisonet | 05050 | 939385 | PBBX |
| 3. POM Eugene Donnelly | 11586 | 948906 | PBBX |
| 4. POM Ryan Bracconeri | 07459 | 948690 | PBBX |
| 5. An officer | | | |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|-------------------------|-----------|--------|----------|
| 1. POM Gabriel Baaith | 25605 | 942970 | 046 PCT |
| 2. SGT Angel Gonzalez | 04646 | 914415 | 046 PCT |
| 3. POM Daniel Gagliardi | 04941 | 941785 | 046 PCT |
| 4. POM Hector Mateo | 01104 | 947232 | 046 PCT |
| 5. POM Brian Okeeffe | 30058 | 940850 | 046 PCT |
| 6. POM Kevin Major | 26337 | 948379 | 046 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|--|-----------------------------|
| A.SGT Raul Maisonet | Discourtesy: In front of § 87(2)(b) in the Bronx, Sergeant Raul Maisonet spoke obscenely to § 87(2)(b) | § 87(2)(b) |
| B.POM Eugene Donnelly | Force: In front of § 87(2)(b) in the Bronx, PO Eugene Donnelly used physical force against § 87(2)(b) and § 87(2)(b) | § 87(2)(b) |
| C.POM Ryan Bracconeri | Force: In front of § 87(2)(b) in the Bronx, PO Ryan Bracconeri used physical force against § 87(2)(b) | § 87(2)(b) |
| D. An officer | Force: In front of § 87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b) | § 87(2)(b) |

| Officer(s) | Allegation | Investigator Recommendation |
|---------------|---|-----------------------------|
| E. Officers | Force: In front of § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b) | |
| F. Officers | Discourtesy: In front of § 87(2)(b) and en route to the 46th Precinct stationhouse in the Bronx, officers spoke obscenely to § 87(2)(b) | |
| G. An officer | Abuse: In front of § 87(2)(b) in the Bronx, an officer threatened to arrest § 87(2)(b) | |
| H. Officers | Abuse: In front of § 87(2)(b) in the Bronx, officers drew their guns. | |

Case Summary

§ 87(2)(b) filed this complaint in person at the CCRB on August 26, 2011 (encl. 27 – 29). On August 23, 2011, at approximately 7:45 p.m., Sergeant Raul Maisonet, PO Eugene Donnelly and PO Ryan Bracconeri of Patrol Borough Bronx responded to a dispute in front of § 87(2)(b) in the Bronx. The following allegations resulted:

- **Allegation A – Discourtesy:** In front of § 87(2)(b) in the Bronx, Sergeant Raul Maisonet spoke obscenely to § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation B – Force:** In front of § 87(2)(b) in the Bronx, PO Eugene Donnelly used physical force against § 87(2)(b) and § 87(2)(b)
- **Allegation C – Force:** In front of § 87(2)(b) in the Bronx, PO Ryan Bracconeri used physical force against § 87(2)(b)
- **Allegation D – Force:** In front of § 87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation E – Force:** In front of § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
- **Allegation F – Discourtesy:** In front of § 87(2)(b) and en route to the 46th Precinct stationhouse in the Bronx, officers spoke obscenely to § 87(2)(b)
- **Allegation G – Abuse of Authority:** In front of § 87(2)(b) in the Bronx, an officer threatened to arrest § 87(2)(b)
- **Allegation H – Abuse of Authority:** In front of § 87(2)(b) in the Bronx, officers drew their guns. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(b)

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

§ 87(2)(b) is a black male who was § 87(2)(b) old at the time of the incident. He is 5’11” tall, weighs 178 pounds and has black hair and brown eyes. § 87(2)(b)
§ 87(2)(b)

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on August 26, 2011 (encl. 30 – 35). On August 23, 2011 at approximately 7:45 p.m., § 87(2)(b) was in his apartment at § 87(2)(b) when his mother, § 87(2)(b) came home and told him that an unidentified male had said something disrespectful to her. § 87(2)(b) did not know the name of this male. § 87(2)(b) § 87(2)(b) went downstairs to speak to the male and they got into an argument, which led to a fight between them. Three of the male’s friends got involved and “jumped” § 87(2)(b) § 87(2)(b) did not know the names of these three other males. § 87(2)(b) and a lot of other people were outside at the time and broke up the fight. § 87(2)(b) did not sustain any injuries from the fight and after it was over he went inside of his building.

About a minute after the fight ended and § 87(2)(b) entered the building, § 87(2)(b) exited the building and saw that three police officers had arrived in a marked van and had three of the unidentified males against the wall. One of these officers, identified through the investigation as PO Eugene Donnelly of Patrol Borough Bronx, was described as a muscular white male who was about 5'9" tall, had blond hair, blue eyes and appeared to be in his late 20s. Another officer, identified by the investigation as PO Ryan Bracconeri of Patrol Borough Bronx, was described as a white male who was muscular, about 5'9" tall, had brown eyes, blond hair and appeared to be in his late 20s. The other officer, identified by the investigation as Sergeant Raul Maisonet of Patrol Borough Bronx, was a slim Hispanic male with black hair who was in his late 20s.

As PO Donnelly dealt with the three males, § 87(2)(b) walked over to PO Donnelly with his finger pointed at the males to tell the officer what had happened. PO Donnelly told § 87(2)(b) to stop and § 87(2)(b) complied. PO Donnelly walked up to § 87(2)(b) with his hand outstretched towards him and § 87(2)(b) glided his hand over his own chest. He did not make any contact with PO Donnelly. PO Donnelly told § 87(2)(b) not to do that. § 87(2)(b) backed up and PO Donnelly grabbed § 87(2)(b) by the waist and tried to slam him to the ground. § 87(2)(b) did not flail his arms but resisted being slammed to the ground by standing and maintaining his balance. § 87(2)(b) who had remained outside the entire time, tried to tell PO Donnelly that § 87(2)(b) had not done anything wrong and not to hurt him. PO Bracconeri then tackled § 87(2)(b) although § 87(2)(b) did not fall and only stumbled a few steps. Then an unknown officer, who § 87(2)(b) could not describe, tripped § 87(2)(b)'s legs and he fell to the ground face down. § 87(2)(b) was handcuffed and kept face down on the floor with the left side of his face on the curb. § 87(2)(b) saw § 87(2)(b) fall and then get picked up and handcuffed.

After § 87(2)(b) was arrested he saw officers and police cars everywhere. He was placed in the paddywagon with PO Donnelly, PO Bracconeri and Sergeant Maisonet. The officers asked him if he understood why he was being arrested. § 87(2)(b) replied that he did understand and it was "because of the motion [he] made." § 87(2)(b) sustained scratches to the left side of his face, to his knee and to his left arm. Photos of his injuries were taken by the undersigned investigator at the conclusion of his interview and are included in the case file. His neck was also sore from the incident. When § 87(2)(b) arrived at the 46th Precinct stationhouse, § 87(2)(b) was already there. § 87(2)(b) requested medical treatment and an ambulance came to check on him. They cleaned his scratches and bandaged his left arm and knee. § 87(2)(b) was not taken to a hospital. § 87(2)(b) had some bruises from the incident as well.

Victim: § 87(2)(b)

§ 87(2)(b) is a black female who was § 87(2)(b) old at the time of the incident. She is 5'9" tall, weighs 185 pounds and has black and brown hair and brown eyes. § 87(2)(b)

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on September 22, 2011 (encl. 37 – 41). On August 23, 2011 at approximately 7:45 p.m., § 87(2)(b) was walking into her building at § 87(2)(b) in the Bronx when an unknown male who she described as a drug dealer called her a "bitch." § 87(2)(b) went to her apartment and told her son § 87(2)(b) what had happened. Against her wishes, § 87(2)(b) ran downstairs and she followed. When § 87(2)(b) got to the courtyard, her friend § 87(2)(b) pointed out the drug dealer to § 87(2)(b). § 87(2)(b) asked him if he had disrespected his mother and the male told him to get the "fuck" out of his face and took a swing at § 87(2)(b). § 87(2)(b) and the drug dealer got into a fight and then two of the drug dealer's friends got involved and "jumped" § 87(2)(b).

§ 87(2)(b) did not know the identities of these other males. § 87(2)(b) was able to defend himself and threw one of them over the gate before § 87(2)(b) and other civilians were able to stop the fight. § 87(2)(b) indicated that a lot of people were around at the time, including § 87(2)(b) § 87(2)(b) § 87(2)(b) and a group of older women who she hangs out with. After her interview, § 87(2)(b) identified § 87(2)(b) and § 87(2)(b) as being outside at the time as well.

Two officers then approached the courtyard. One officer, identified by the investigation as Sergeant Raul Maisonet, was described as a Puerto Rican male who was about 5'10" tall, was muscular, in his mid-40s and had dark hair. The other officer, who was identified by the investigation as PO Ryan Bracconeri, was described as a young white male who was shorter than Sergeant Maisonet. Sergeant Maisonet banged his baton on the ground and yelled, "What the fuck is going on over here?" The fight was over by this point; the three unknown males were running down the block as § 87(2)(b) stood on the building's steps taunting them and saying he had kicked their ass. § 87(2)(b) pointed out the males that had harassed her to the police while § 87(2)(b) walked out of the courtyard in the direction of where the males had fled. § 87(2)(b) thought that § 87(2)(b) was going after them.

As § 87(2)(b) walked on the sidewalk another officer, described as a young white male who was blond and the arresting officer and who was identified by the investigation as PO Eugene Donnelly, approached § 87(2)(b) and shoved him into the brick wall of the building. An officer, PO4, who was described as a muscular blond white male who was a little taller than PO Donnelly, got out of a vehicle and grabbed § 87(2)(b) and assisted PO Donnelly in attempting to throw § 87(2)(b) to the ground. PO4 remains unidentified. § 87(2)(b) stayed standing against the wall with his hands behind his back while saying, "Is that all you got?" § 87(2)(b) ran towards § 87(2)(b) and saw another officer, PO5, reach over PO Donnelly and PO4 and grab § 87(2)(b). Then the officers were able to tackle him to the ground. PO5 was a white male who was about the same height as PO Donnelly but was huskier. PO5 remains unidentified.

Once on the floor, PO4 had his knee in § 87(2)(b)'s back and PO Donnelly banged § 87(2)(b)'s head against the floor three times, causing cuts to § 87(2)(b)'s head and face. § 87(2)(b) ran up to the officers with her arm outstretched, put her hand on PO Donnelly's shoulder and told them to not hurt § 87(2)(b) because he is HIV positive. PO Donnelly punched § 87(2)(b) in the face, causing swelling and a bump to form that she described as being like a blood clot. § 87(2)(b) was in a daze and continued telling the officers not to hurt him and that he had not done anything wrong. She also yelled at § 87(2)(b) to not resist and let them arrest him. Sergeant Maisonet grabbed § 87(2)(b)'s arm and PO Donnelly told him to arrest her. Sergeant Maisonet handcuffed her and then an officer, PO6, told her to get the "fuck" over here. PO6, who remains unidentified, is a big black male who was bald, in his 30s, wore plainclothes and a bulletproof vest and had a shield around his neck. PO6 brought § 87(2)(b) to a van that had arrived to the scene and told her to get the "fuck" in the van and to get her "ass" in the "fucking" back.

§ 87(2)(b) indicated that approximately 90 officers came to the scene. Most of them were from the 46th Precinct but others she had never seen before. She also indicated that officers came in "Warrant Squad" vans. A group of about seven officers coming from Burnside Avenue and East 179th Street were running to the scene with their guns drawn. She could only describe these officers as white males and they could not be identified.

§ 87(2)(b) was transported to the 46th Precinct stationhouse by PO6, who was in the front passenger seat, and two other officers. PO7, who remains unidentified, was the driver and was a bald white male who seemed to be the senior officer. He was in plainclothes and was "big and fat" and "had a big belly." PO8, who also remains unidentified, was a bald white male who was young and sat in the back; he did not say anything. When § 87(2)(b) asked why she was

being arrested, PO7 told her that they were taking her to the precinct so she could “calm the fuck down” and that she would be released with a desk appearance ticket.

Upon arriving at the stationhouse, § 87(2)(b) saw § 87(2)(b) bleeding from his face and elbows. These injuries were from the police and not from the fight with the unknown males. PO Donnelly told her she was being arrested for § 87(2)(b) and that he had to give the case to another officer since he had to go on medical leave because her son has HIV. § 87(2)(b) did not see her friend § 87(2)(b) get arrested but saw her at the stationhouse. § 87(2)(b) had a big hole in her knee which was bleeding. § 87(2)(b) refused medical attention because she did not want to prolong her processing. § 87(2)(b) went to her dentist on August 30, 2011, for treatment of the “blood clot” in her jaw from when she was punched. Her dentist told her that it was permanent. § 87(2)(b)'s arrest photograph showed no irregularities to her face (encl. 42).

At the conclusion of the interview, § 87(2)(b) indicated she would call the CCRB back to provide the information for her dentist. She was called on October 6, 2011, but she could not speak long as she was at a group meeting and indicated she would call later with her dentist's information. To date, she has not called back to provide her dentist's information.

Victim: § 87(2)(b)

§ 87(2)(b) is a black female who was § 87(2)(b) old at the time of the incident. She is 5'3" tall, weighs 200 pounds and has black hair and brown eyes. § 87(2)(b)

CCRB Testimony

§ 87(2)(b) provided a telephone statement on October 13, 2011 (encl. 213). She was interviewed at the CCRB on October 20, 2011 (encl. 43 – 47). § 87(2)(g)

On August 23, 2011, at approximately 7:45 p.m., § 87(2)(b) was in her apartment, which is located at § 87(2)(b) in the Bronx, when she heard her friend § 87(2)(b) yell in the courtyard of the building, “No one is going to jump my son.” § 87(2)(b) ran to the courtyard and saw § 87(2)(b) outside of the fence of the courtyard “scuffling” with two male police officers. These officers were identified through the investigation as PO Eugene Donnelly and PO Ryan Bracconeri. PO Donnelly and PO Bracconeri had § 87(2)(b) whose hands were behind his back, against a car but § 87(2)(b) was moving his body back and forth and yelled at the officers that they were letting the guys who started everything get away. § 87(2)(b) was at first against the car, but as the officers struggle with him he was taken to the wall of the building, back to the car and then onto the floor where the officers held him face-down. The officers did not use any weapons or nightsticks against § 87(2)(b) who they had a hard time subduing. § 87(2)(b) indicated that the officers kicked and hit § 87(2)(b) but she could not describe these actions further because of the surrounding chaos.

§ 87(2)(b) ran out of the courtyard towards where the officers struggled with § 87(2)(b) and yelled at them to get off her son and that they had the wrong person. § 87(2)(b) grabbed one of the officers struggling with § 87(2)(b) by his shoulders to pull him off. § 87(2)(b) did not know which officer § 87(2)(b) grabbed. § 87(2)(b) pulled § 87(2)(b) away from the officer and attempted to talk to her as she struggled with § 87(2)(b) continued behind § 87(2)(b) § 87(2)(b) saw more officers exit their vehicles in an aggressive manner with their hands on their guns. An officer, who § 87(2)(b) recognized from the 46th Precinct Community Affairs Council meetings that she attends as Sergeant Raul Maisonet, came towards her and § 87(2)(b) § 87(2)(b) turned away from § 87(2)(b) to get away from her and as she did her hands were up and in front of her. § 87(2)(b) turned directly into Sergeant Maisonet, who ran into her hands with his chest. Sergeant Maisonet told § 87(2)(b) “Now I got

you for assaulting a police officer,” and “sucker-punched” § 87(2)(b) in the face. § 87(2)(b) fell to the floor. Sergeant Maisonet looked at § 87(2)(b) who told him that if he hit her there would be a “whole other ball game out here.” Sergeant Maisonet continued to where § 87(2)(b) was struggling with the officers. § 87(2)(b) did not see what happened to § 87(2)(b) after this point. In her telephone statement on October 13, 2011, § 87(2)(b) indicated that while § 87(2)(b) was on the ground, officers kicked § 87(2)(b) and hit her with nightsticks. § 87(2)(b) stood in the way of officers getting to § 87(2)(b) to prevent them from piling on him. § 87(2)(b) complained that the officers were too aggressive and came into the incident thinking who they could arrest or shoot. § 87(2)(b) yelled at the officers that there was no imminent threat to the police and that they were the imminent threat. § 87(2)(b) indicated that several officers ran towards the incident with their hands on their weapons. She ran to about four or five of these officers and put her hand on their forearms, away from their gun and hand, as she asked them to please not draw their weapon. She did not get the names or badge numbers of any of these officers. One of them told § 87(2)(b) “I should lock you the fuck up.” § 87(2)(b) described him as having “fiery” red hair, a red mustache, a small to average body build and as being a little taller than 5’3.” This officer remains unidentified. § 87(2)(b) told the officer that he could lock her up but that he should not draw his gun. § 87(2)(b) was not arrested and lost track of the officer after this confrontation.

§ 87(2)(b) indicated that about 30 to 40 officers responded to the scene and that “90% of the neighborhood” was outside. An officer in uniform who came from 181st Street jumped out of his RMP and went to draw his weapon but as he drew it he dropped it and it “flew” under a van that was parked by the curb. § 87(2)(b) could not describe the officer because of the distance and the chaos. Eventually § 87(2)(b) and § 87(2)(b) were placed in custody and taken into police vehicles. § 87(2)(b) did not see any one else get arrested. She indicated that no pepper-spray or batons were used by the officers and that none of them drew their weapons, except for the officer that dropped his.

Victim: § 87(2)(b)

§ 87(2)(b) is a black female who was § 87(2)(b) old at the time of the incident. She is 5’6” tall, weighs 123 pounds and has black hair and brown eyes. Her employment status is unknown.

CCRB Testimony

§ 87(2)(b) provided a telephone statement on September 12, 2011 (encl. 48). On August 23, 2011, § 87(2)(b) was walking home when unidentified females said something to her unidentified cousin. While this happened, an unidentified male who sells crack outside of her building told her friend § 87(2)(b) “Shut the fuck up.” § 87(2)(b) went into the building and told her son, § 87(2)(b) what had happened. § 87(2)(b) exited the building and spoke to the male to have him apologize to his mother. The male did not care and he and § 87(2)(b) fought. § 87(2)(b) and other civilians attempted to break up the fight when some of the male’s friends jumped into the fight.

When the fight ended, § 87(2)(b) and § 87(2)(b) went inside of their building. When the police came, § 87(2)(b) ran outside after the male who he had fought so that he could be arrested. § 87(2)(b) ran after § 87(2)(b). As § 87(2)(b) ran after the male, three police officers grabbed him and started beating him. § 87(2)(b) did not describe the officers and could not articulate what they did to him beyond “beating him” and trying to “push his head through the ground.” Eventually § 87(2)(b) stopped fighting them and he was arrested. § 87(2)(b) did not indicate how § 87(2)(b) fought with the officers. § 87(2)(b) tried to tell the officers that they had the wrong person but they pushed her and other people away. Many officers came to the

scene and the arresting officer, identified by the investigation as PO Eugene Donnelly, accused § 87(2)(b) and § 87(2)(b) of touching him. § 87(2)(b) denied that § 87(2)(b) or herself ever “touched” an officer. Four to five officers, who she did not describe, “bum-rushed her.” § 87(2)(b) admitted to fighting with these officers. The officers banged her head against a car and dragged her along the floor, causing a scar on her knee. § 87(2)(b) indicated that § 87(2)(b) and herself all resisted arrest. § 87(2)(b) complained that while she was being arrested the officers pulled her left arm back so much that it caused an injury.

When § 87(2)(b) provided her telephone statement on September 12, 2011, she scheduled an interview for September 13, 2011. On September 13, 2011, § 87(2)(b) canceled her interview and indicated that would call back to reschedule. A voicemail was left for § 87(2)(b) on September 30, 2011. On October 3, 2011, she scheduled an interview for October 5, 2011. On October 5, 2011, § 87(2)(b) left a voicemail asking to reschedule her interview. On October 6, 2011, she rescheduled her interview for October 7, 2011. § 87(2)(b) missed this interview and did not call previously to cancel or reschedule. Three calls were made to § 87(2)(b) between October 14, 2011, and October 25, 2011. § 87(2)(b) answered the call on October 25, 2011, and stated that she did not have time to come in for an interview but would call back when she did have the time. To date, § 87(2)(b) has not called the CCRB to schedule an interview.

Witness: § 87(2)(b)

§ 87(2)(b) *pedigree information is unknown.*

CCRB Testimony

§ 87(2)(b) provided a telephone statement on October 3, 2011 (encl. 50). On August 23, 2011, officers were harassing his friends § 87(2)(b) and § 87(2)(b). Two officers punched § 87(2)(b) hit her with a “cane” and threw her to the floor. § 87(2)(b) went towards them saying, “No, no, no that’s my mother,” and was punched in the face. Three officers assaulted § 87(2)(b) threw him to the floor and kicked him. All of the officers involved were white males in uniform; § 87(2)(b) could not describe them further. Both § 87(2)(b) and § 87(2)(b) were arrested.

After § 87(2)(b) provided his telephone statement on October 3, 2011, he scheduled an interview for October 6, 2011. § 87(2)(b) did not appear for this interview and did not call previously to cancel or reschedule. On October 7, 2011, § 87(2)(b) called the CCRB and scheduled an interview for October 14, 2011. § 87(2)(b) did not appear for this interview and did not call previously to cancel or reschedule. To date, § 87(2)(b) has not called to reschedule his missed appointment.

Witness: § 87(2)(b)

§ 87(2)(b) *pedigree information is unknown.*

CCRB Testimony

§ 87(2)(b) provided a telephone statement on October 19, 2011 (encl. 51). On August 23, 2011, § 87(2)(b) sat outside of her building with her friend § 87(2)(b) when officers responded in regards to an earlier incident between § 87(2)(b) s son, § 87(2)(b) and some unidentified young men. As the officers walked by the young men who had been the problem, § 87(2)(b) and the other civilians tried to tell them what happened. § 87(2)(b) walked up to an officer to try to explain what happened and the officer told him to back off. § 87(2)(b) said that he was backing off but stood his ground. The officer told § 87(2)(b) that he was not playing and grabbed him and threw him against a car. The officer started beating

§ 87(2)(b) although § 87(2)(b) could not articulate how, and dragged § 87(2)(b) to the floor. § 87(2)(b) went over to them and told the officer that was her son and asked what the officer was doing to him. A lot of officers were there by then and an officer took out his baton and hit her with it. An officer punched § 87(2)(b) in the face as well. § 87(2)(b) also complained that several officers drew their weapons and that one of them dropped his gun and it fell under a car. § 87(2)(b) did not identify or describe any of the officers involved in the incident.

When § 87(2)(b) provided her telephone statement on October 19, 2011, she scheduled an interview for October 25, 2011. § 87(2)(b) did not appear for this interview and did not call previously to cancel or reschedule. A missed appointment letter was sent to her on October 27, 2011. To date, this letter has not been returned by the United States Postal Service. § 87(2)(b) was called on November 2, 2011, but she did not answer and there was no opportunity to leave a voicemail. On November 9, 2011, § 87(2)(b) was called; while the undersigned investigator left a voicemail the message machine was disconnected. To date, § 87(2)(b) has not responded to these attempts to reschedule her missed appointment.

Attempts to Contact Civilians

§ 87(2)(b) did not provide the full names or contact information for § 87(2)(b) or § 87(2)(b) and therefore they could not be contacted.

§ 87(2)(b) was called on October 7, 2011. She answered the phone and stated that she was in class and asked that the undersigned investigator call back at another time. A call was made to her later in the day on October 7, 2011, but there was no answer. Four voicemails were left for § 87(2)(b) between October 19, 2011 and November 9, 2011. Letters were sent to her on September 28, 2011, October 28, 2011, and November 7, 2011. These letters have not been returned by the United States Postal Service. To date, § 87(2)(b) has not responded to these attempts to contact her.

NYPD Statement(s):

Subject Officer: PO EUGENE DONNELLY

- *PO Donnelly is a white male who was § 87(2)(b) old at the time of the incident. He is 5'8" tall, weighs 160 pounds and has blond hair and blue eyes.*
- *He is assigned to the 46th Precinct. On August 23, 2011, he worked, in uniform, from 4:00 p.m. until 12:35 a.m. the next morning. He was assigned to the 46th Precinct mobile Impact van with PO Ryan Bracconeri and Sergeant Raul Maisonet. They were assigned marked van 8610.*

Memo Book

At 7:45 p.m. on August 23, 2011, PO Donnelly had a "pick-up" of individuals fighting and saw a large, disorderly group in the courtyard of § 87(2)(b). PO Bracconeri and Sergeant Maisonet entered the courtyard to investigate the disturbance while PO Donnelly approached three males who were exiting the courtyard at an expeditious pace. PO Donnelly stopped the males and questioned them as to why they changed directions at the sight of the officers. While questioning them, § 87(2)(b) ran at PO Donnelly in an irate manner with his fists clenched. PO Donnelly ordered him to stop and get back but § 87(2)(b) punched PO Donnelly in the chest and attempted to get through PO Donnelly to the three males. A "fight to apprehend" § 87(2)(b) ensued and PO Bracconeri and Sergeant Maisonet came to PO Donnelly's assistance. § 87(2)(b) violently engaged in a physical altercation with PO Bracconeri and resisted arrest by swinging his arms and kicking. While struggling with § 87(2)(b)

§ 87(2)(b) § 87(2)(b) and § 87(2)(b) entered the altercation. § 87(2)(b) and § 87(2)(b) jumped on PO Donnelly's back and swung their arms in an attempt to obstruct PO Donnelly and PO Bracconeri from doing their lawful duty. PO Donnelly then attempted to remove § 87(2)(b) and § 87(2)(b) from the area while PO Bracconeri and Sergeant Maisonet struggled with § 87(2)(b). At 7:49 p.m., a call for additional units was made. At 7:50 p.m., § 87(2)(b) and § 87(2)(b) were arrested in front of § 87(2)(b) for § 87(2)(b). At 7:52 p.m., PO Donnelly transported § 87(2)(b) to the 46th Precinct stationhouse. At 8:00 p.m., he arrived at the stationhouse. At 8:10 p.m., EMS arrived at the stationhouse to treat injured officers. At 8:20 p.m., he was en route to § 87(2)(b) with the ambulance and arrived there at § 87(2)(b) (encl. 52 – 56).

AIDED Report

At the time and place of occurrence, PO Donnelly had scratches on his left arm from affecting an arrest (encl. 57 – 61).

CCRB Testimony

PO Eugene Donnelly was interviewed at the CCRB on November 28, 2011 (encl. 62 – 64). On August 23, 2011 at approximately 7:54 p.m., PO Donnelly, PO Bracconeri and Sergeant Maisonet were travelling northbound on Morris Avenue in their marked van when an unknown civilian approached them and indicated that a fight was occurring in the courtyard of a housing development. The officers got parallel with the courtyard and saw a lot of people in a group and sounds indicative of a violent fight. The officers exited their vehicle and Sergeant Maisonet and PO Bracconeri entered the courtyard while PO Donnelly stopped three males who had started to quickly leave the courtyard once the officers approached. The males, who PO Donnelly has arrested before, are known criminals and were sweating and had blood on them. The males were cooperative with PO Donnelly, who asked them what was happening. PO Donnelly did not know what Sergeant Maisonet and PO Bracconeri were doing at this point.

A few seconds after PO Donnelly stopped the males, § 87(2)(b) exited § 87(2)(b) and was either walking quickly or running towards the males with his fists clenched while yelling threats at them. § 87(2)(b) was intent on getting to the three males but PO Donnelly positioned himself in § 87(2)(b)'s way. § 87(2)(b)'s mother, also ran out of the building while yelling at the three males who PO Donnelly had stopped. § 87(2)(b) got face to face with PO Donnelly and bumped him with his chest in an attempt to get through him to the males. When § 87(2)(b) realized that PO Donnelly was not going to let him through, § 87(2)(b)'s focus went from the three males to PO Donnelly. PO Donnelly told him to get back and also may have extended his arm as a gesture to get back. § 87(2)(b) punched PO Donnelly in the chest and at that point PO Donnelly attempted to arrest § 87(2)(b).

PO Donnelly gave § 87(2)(b) numerous commands to get onto the floor and not to move but § 87(2)(b) refused and violently resisted arrest. § 87(2)(b) threw punches, kicked, flailed his arms and grabbed at PO Donnelly's arms as PO Donnelly attempted to gain control of § 87(2)(b) to handcuff him. PO Donnelly indicated that it was "not a five second struggle, this was a full blown fight, struggle." PO Bracconeri and Sergeant Maisonet assisted PO Donnelly but they could not handcuff § 87(2)(b) due to his level of resistance. As the officers struggled with § 87(2)(b), § 87(2)(b) jumped on PO Donnelly's back and grabbed at his arms while screaming, "You are arresting the wrong boy," and spitting in his face. § 87(2)(b) also jumped on top of the officers and grabbed at their arms in an attempt to prevent the officers from arresting § 87(2)(b). Due to the females' involvement, a call for additional units was called but

it took a while for the officers to reach their radios due to the struggle. Sergeant Maisonet was eventually able to stand up over PO Donnelly and PO Bracconeri to call for additional units. Sergeant Maisonet then left the struggle to conduct crowd control as the screaming crowd of approximately 50 people condensed around the struggle. PO Donnelly indicated that it was a very threatening and scary situation for the officers, who could not reach anything on their gun belt. None of the three officers used their asps or pepper-spray.

§ 87(2)(b)s and § 87(2)(b)s involvement in the struggle got to the point where PO Donnelly had to leave PO Bracconeri to struggle alone with § 87(2)(b) while PO Donnelly attempted to remove § 87(2)(b) and § 87(2)(b) from off of them. PO Donnelly could not recall in what manner they were removed but indicated that he just used his hands and the minimum amount of force necessary to get § 87(2)(b) off of his back, keep himself and PO Bracconeri safe and to establish separation from the females and the struggle between PO Bracconeri and § 87(2)(b). PO Donnelly did not recall punching § 87(2)(b) in the face. He did not see another officer do so. When PO Donnelly took § 87(2)(b) and § 87(2)(b) away from § 87(2)(b) and PO Bracconeri they continued to struggle with him.

Approximately three minutes after making the call for additional units, more officers began to arrive at the scene. PO Donnelly could not recall specifically any of the officers who arrived but indicated that it “seemed like the whole Bronx showed up.” Additional officers assisted PO Donnelly with § 87(2)(b) and § 87(2)(b) and PO Donnelly handcuffed one of them. PO Donnelly could not recall if he handcuffed § 87(2)(b) or § 87(2)(b). He could not recall which officers assisted him. He did not know who handcuffed the female he did not handcuff. He did not handcuff § 87(2)(b) and did not know at what point he was handcuffed.

PO Donnelly transported § 87(2)(b) to the 46th Precinct stationhouse. He could not recall who transported § 87(2)(b) or § 87(2)(b). While at the desk, § 87(2)(b) told PO Donnelly that he was HIV positive. PO Donnelly noticed that his forearms were covered in blood and that he had numerous scrapes and cuts on his forearms from § 87(2)(b)s nails during the struggle. Although PO Donnelly recalled that a Medical Treatment of Prisoner Report was prepared for § 87(2)(b) and that he sustained enough injuries to cause him to bleed onto PO Donnelly and PO Bracconeri, PO Donnelly could not specifically recall what these injuries were. He postulated that § 87(2)(b) may have had a cut to his head when he fell to the pavement but he could not be sure. PO Donnelly could not recall if § 87(2)(b) had any injuries.

PO Donnelly never heard Sergeant Maisonet yell, “What the fuck is going on.” He also indicated that he could not hear or see what Sergeant Maisonet was doing at the point that the statement is alleged to have been made. PO Donnelly did not see any officer bang § 87(2)(b)s head on the floor and he did not engage in this action. PO Donnelly did not see any officers draw their guns.

Subject Officer: PO RYAN BRACCONERI

- *PO Bracconeri is a white male who was § 87(2)(b) old at the time of the incident. He is 5’8” tall, weighs 200 pounds and has brown hair and brown eyes.*
- *He is assigned to the 46th Precinct. On August 23, 2011, he worked, in uniform, from 4:00 p.m. until 12:35 a.m. on August 24, 2011. He was assigned to patrol in marked van 8610 with Sergeant Raul Maisonet and PO Eugene Donnelly.*

Memo Book

At 7:45 p.m. on August 23, 2011, PO Bracconeri received a “pick-up” of males fighting in front of § 87(2)(b). PO Bracconeri and Sergeant Maisonet entered the courtyard to approach a large, disorderly group located there while PO Donnelly approached three males who changed their direction and exited the courtyard upon seeing the officers. While attempting to

investigate the fight, PO Bracconeri observed § 87(2)(b) walk aggressively with his fists clenched to where PO Donnelly had the three males stopped. PO Bracconeri began to move in that direction as well and saw § 87(2)(b) walk up closely behind PO Donnelly. PO Donnelly told § 87(2)(b) to get back and extended his arm towards him and § 87(2)(b) hit PO Donnelly in the chest and attempted to get to the three males. PO Donnelly tried to apprehend § 87(2)(b) and PO Bracconeri assisted him. § 87(2)(b) was extremely physically combative and violently resisted arrest by swinging his arms and pushing. While they struggled with § 87(2)(b) § 87(2)(b) and § 87(2)(b) attempted to pull PO Bracconeri and PO Donnelly away from § 87(2)(b) obstructing their efforts to arrest him. While PO Bracconeri was physically engaged with § 87(2)(b) PO Donnelly struggled by himself with both § 87(2)(b) and § 87(2)(b). At 7:50 p.m., § 87(2)(b) and § 87(2)(b) were arrested. At 7:52 p.m. they were transported to the stationhouse. PO Bracconeri arrived at the stationhouse at 8:00 p.m. At 8:10 p.m., EMS arrived to treat PO Bracconeri and PO Donnelly. At 8:47 p.m., PO Bracconeri arrived at § 87(2)(b) (encl. 65 – 69).

AIDED

At the time and place of occurrence, PO Bracconeri sustained cuts to his right hand and fingers, lacerations to his right wrist and elbow, and scratches to his left hand and forearm from affecting an arrest (encl. 70 – 74).

CCRB Testimony

PO Ryan Bracconeri was interviewed at the CCRB on December 6, 2011 (encl. 75 – 76). While on patrol, PO Bracconeri, PO Donnelly and Sergeant Maisonet received information that a large group was fighting in the courtyard of § 87(2)(b). The officers exited their van and saw up to 20 screaming people in the courtyard. PO Bracconeri and Sergeant Maisonet split up from PO Donnelly and entered the courtyard. Once they entered, three unidentified males changed their direction and exited the courtyard through another gate, causing PO Donnelly to stop them. At that point, § 87(2)(b) walked past PO Bracconeri very quickly in an aggressive manner with his fists clenched. § 87(2)(b) was not saying anything and PO Bracconeri did not interact with him.

§ 87(2)(b) went up to PO Donnelly and PO Donnelly told him to get back. § 87(2)(b) immediately pushed PO Donnelly and PO Donnelly attempted to arrest him. § 87(2)(b) resisted arrest and PO Bracconeri ran to assist PO Donnelly. § 87(2)(b) violently resisted arrest by flailing his arms, throwing punches, kicking and pushing the officers in an attempt to escape. The officers were able to get § 87(2)(b) to the ground and the crowd exited the courtyard and surrounded them as they struggled on the sidewalk. PO Bracconeri did not indicate how they were able to get him to the ground. Sergeant Maisonet did not assist in the arrest of § 87(2)(b) and was focused on controlling the crowd.

As PO Donnelly and PO Bracconeri struggled with § 87(2)(b) on the ground, two females, identified by the investigation as § 87(2)(b) and § 87(2)(b) tried to obstruct the officers from arresting § 87(2)(b) and jumped on PO Donnelly's back. PO Bracconeri could not recall if the two females jumped on him as well. PO Donnelly stopped struggling with § 87(2)(b) to deal with § 87(2)(b) and § 87(2)(b). PO Bracconeri did not see what happened during PO Donnelly's interaction with § 87(2)(b) or § 87(2)(b) because he was dealing with § 87(2)(b).

PO Bracconeri was eventually able to handcuff § 87(2)(b) without any other officer's assistance. He did not know if he handcuffed him before or after other units arrived. § 87(2)(b) had some blood on his lips and maybe his arms as well. PO Bracconeri sustained lacerations to

his wrist and fingertips and also to his knuckles from the chain of the handcuffs. While either in the van or at the front desk of the stationhouse, § 87(2)(b) informed the officers that he was HIV positive. PO Bracconeri and PO Donnelly went line of duty sick because they were exposed to HIV.

PO Bracconeri did not recall Sergeant Maisonet saying, “What the fuck is going on.” Neither he nor any other officer banged § 87(2)(b)’s head on the floor. PO Bracconeri did not punch any of the females in the face and did not see another officer do so. He did not see any officer with their guns drawn and did not recall who transported § 87(2)(b) or § 87(2)(b) to the stationhouse.

Subject Officer: SERGEANT RAUL MAISONET

- *Sergeant Maisonet is a Hispanic male who was § 87(2)(b) old at the time of the incident. He is 5’11” tall, weighs 185 pounds and has black hair and hazel eyes.*
- *He is assigned to the 46th Precinct. On August 23, 2011, he worked, in uniform, from 2:50 p.m. until 11:47 p.m. He was assigned as the Impact sergeant and worked with PO Eugene Donnelly and PO Ryan Bracconeri in an marked van.*

Memo Book

At 7:45 p.m. on August 23, 2011, Sergeant Maisonet had a pick-up of a large, disorderly group fighting in front of § 87(2)(b). § 87(2)(b) pushed PO Donnelly in an attempt to get into an altercation with other males. PO Donnelly and PO Bracconeri attempted to arrest § 87(2)(b) who forcefully resisted arrest. While PO Donnelly and PO Bracconeri were engaged with § 87(2)(b) and § 87(2)(b) jumped on PO Donnelly’s and PO Bracconeri’s backs, pulled their arms away from § 87(2)(b) and pushed them to prevent them from arresting him. After other officers came to their assistance they were able to arrest § 87(2)(b) and § 87(2)(b) for § 87(2)(b). At 7:52 p.m., the perpetrators were transported to the stationhouse and they arrived there at 8:00 p.m. At 8:20 p.m., PO Donnelly and PO Bracconeri were transported by EMS to § 87(2)(b) (encl. 77 – 80).

CCRB Testimony

Sergeant Raul Maisonet was interviewed at the CCRB on December 8, 2011 (encl. 81 – 82). Sergeant Maisonet was on routine patrol on Morris Avenue with PO Donnelly and PO Bracconeri when they were flagged down by an unknown individual saying that there was a large fight in a courtyard. The officers exited the van to investigate and Sergeant Maisonet went to the gate on the left side of the courtyard while PO Donnelly and PO Bracconeri went to the gate on the right side. When § 87(2)(b) initially saw the officers he ran into the building. A civilian pointed out three unidentified males who had been involved in the fight with § 87(2)(b) and PO Donnelly and PO Bracconeri stopped them about 50 feet away from Sergeant Maisonet. There were about 25 agitated people at the scene who were screaming at each other. It was difficult for the officers to speak to the civilians to find out who was involved in the fight.

At the time that PO Donnelly and PO Bracconeri stopped the three males, § 87(2)(b) who appeared agitated, ran out of the building and ran past Sergeant Maisonet, brushing Sergeant Maisonet’s shoulder in the process. Sergeant Maisonet did not say anything to § 87(2)(b) and § 87(2)(b) was not saying anything at this point. § 87(2)(b) ran directly to PO Donnelly and PO Donnelly turned around and told him to stop to prevent him from coming into contact with the three males. § 87(2)(b) did not verbally respond but pushed PO Donnelly. PO Donnelly

went to grab § 87(2)(b)'s hands to arrest him and § 87(2)(b) pushed him again. PO Bracconeri then assisted PO Donnelly in arresting § 87(2)(b) who continued to resist arrest. Sergeant Maisonet did not specify how § 87(2)(b) resisted arrest. Once Sergeant Maisonet saw this he called for additional units because the officers were outnumbered by the civilians. It took a while for officers to respond, however, because the Central Dispatcher could not hear the location.

Once PO Donnelly and PO Bracconeri began struggling with § 87(2)(b) Sergeant Maisonet ran over to them to keep the crowd away. As he did this, two females who had been standing near him jumped on the backs of PO Donnelly and PO Bracconeri. These two females were identified by the investigation as § 87(2)(b) and § 87(2)(b). Sergeant Maisonet focused on keeping the crowd away so no other civilians would get involved and did not see how the struggle played out. Sergeant Maisonet did not physically interact with § 87(2)(b) or § 87(2)(b).

Sergeant Maisonet was not sure when § 87(2)(b) was handcuffed. He did not know who arrested § 87(2)(b) and § 87(2)(b) and did not see how they were arrested. The crowd became more agitated when they saw § 87(2)(b) and the two females in handcuffs so Sergeant Maisonet directed the officers to get the civilians back to the stationhouse as soon as possible. He did not know who transported them to the stationhouse and indicated that there were numerous vehicles at the scene.

Sergeant Maisonet did not recall seeing any injuries to § 87(2)(b). He only recalled injuries to PO Donnelly and PO Bracconeri, who had to go line of duty sick for 30 days after being told by § 87(2)(b) at the stationhouse that he is HIV positive. Neither Sergeant Maisonet nor any other officer yelled, "What the fuck is going on." Sergeant Maisonet did not see any officer bang § 87(2)(b)'s head on the ground or punch § 87(2)(b) in the face. He never heard an officer tell § 87(2)(b) to, "get the fuck over here." He did not see any officers draw their guns.

Witness Officer: SERGEANT ANGEL GONZALEZ

- *Sergeant Gonzalez is a Hispanic male who was § 87(2)(b) old at the time of the incident. He is 5'11" tall, weighs 205 pounds and has black hair and brown eyes.*
- *He is assigned to the 46th Precinct. On August 23, 2011, he worked, in plainclothes, from 2:50 p.m. until 11:47 a.m. He was assigned as the SNEU sergeant. He worked alone in a marked RMP.*

Memo Book

Sergeant Gonzalez had no memo book entries regarding the incident (encl. 83 – 84).

CCRB Testimony

Sergeant Angel Gonzalez was interviewed at the CCRB on December 29, 2011 (encl. 85 – 86). On August 23, 2011, Sergeant Gonzalez responded to a call for additional units on § 87(2)(b). Half of the precinct responded to the call for additional units. He arrived after the arrests were made and did not recall anything else regarding the incident. He did not interact with any of the arrested individuals and did not transport any of them. He did not recall who transported them to the precinct. He was shown the arrest photograph of § 87(2)(b) but did not recall her. He never heard an officer say, "Get the fuck over here" or use any other profanity against a civilian.

Witness Officer: PO GABRIEL BAAITH

- *PO Baaith is a black male who was § 87(2)(b) old at the time of the incident. He is 5'11" tall, weighs 285 pounds and has black hair (shaved bald) and brown eyes.*
- *He is assigned to the 46th Precinct. On August 23, 2011, he worked from 1:30 p.m. until 10:05 p.m. He was assigned to SNEU. He did not recall who he worked with, whether he worked in plainclothes or uniform, or if he was assigned to a motor vehicle. He did not make any notations regarding that information in his memo book.*

Witness Officer: PO DANIEL GAGLIARDI

- *PO Gagliardi is a white male who was § 87(2)(b) old at the time of the incident. He is 5'9" tall, weighs 250 pounds, is bald and has brown eyes.*
- *He is assigned to the 46th Precinct. On August 23, 2011, he worked in plainclothes, from 1:30 p.m. until 10:05 p.m. He was assigned to the SNEU observation post and worked with PO Gabriel Baaith in an unmarked vehicle.*

Memo Books

PO Baaith and PO Gagliardi did not have any memo book entries regarding the incident (encl. 87 – 88 and 95 – 96, respectively).

CCRB Testimony

PO Gabriel Baaith was interviewed at the CCRB on December 29, 2011 (encl. 89 – 90). PO Daniel Gagliardi was interviewed at the CCRB on January 4, 2012 (encl. 97 – 98). They did not recall responding to the incident. They were shown the arrest photograph of § 87(2)(b) but did not recognize her. They indicated that, being assigned to a SNEU observation post, they would not respond to calls for additional units.

Witness Officer: PO KEVIN MAJOR

- *PO Major is a white male who was § 87(2)(b) old at the time of the incident. He is 6' tall, weighs 240 pounds and has brown hair and green eyes.*
- *He is assigned to the 46th Precinct. On August 23, 2011, he worked in uniform, from 5:30 p.m. to 2:05 a.m. He was assigned to conditions and worked with PO Israel Oriol in unmarked van 8386.*

Memo Book

PO Major had no book entries regarding the incident (encl. 105 – 107)

CCRB Testimony

PO Kevin Major was interviewed at the CCRB on February 7, 2012 (encl. 108 – 109). When PO Major and PO Oriol heard the call for additional units, they were on the other side of the confines of the 46th Precinct. No address was provided right away, but they started to travel to the Impact zone because they realized it was Impact officers who had made the call. Once they received the address they went to the location. As they turned onto Morris Avenue, they heard a call for no further units on the radio. There was a line of police cars on the block and they got as far as they could and parked. PO Major took a jog up the block to the scene and saw a crowd of people on the sidewalks of both sides of the street. There was tension in the crowd and he could tell some of them were angry, but they did not interfere with the police. The people who were arrested were already handcuffed and in police vans. He never saw the handcuffed individuals and did not see them get handcuffed. He could not recall which vehicles transported them. PO

Major was there for no more than a minute before the officers were ordered to resume patrol. He did not transport any civilians to the stationhouse.

Other Officers Interviewed

PO Hector Mateo and PO Brian Okeeffe, both of the 46th Precinct, were interviewed on January 4, 2012 (encl. 93 – 94) and January 11, 2012 (encl. 103 – 104), respectively. PO Mateo was at the stationhouse from 4:30 p.m. until his end of tour and PO Okeeffe ended his tour early at 7:00 p.m. § 87(2)(g)

Medical Records

The ambulance call report for § 87(2)(b) (encl. 116 – 119) indicated that he was found in the 46th Precinct stationhouse at 8:07 p.m.. He informed the EMTs that he had gotten into a fight earlier and was found to have abrasions on his elbow and right knee with “mild bleed[ing].” § 87(2)(b) stated, “I’m ok,” and refused further medical treatment. § 87(2)(b) s prior medical history indicated that he has HIV.

NYPD Document(s)

SPRINT T13092

On August 23, 2011 at 7:47 p.m., Sergeant Maisonet called for additional units. There was a lot of noise and yelling in the background, including a female who was identified by the investigation as § 87(2)(b) yelling, “No, no, that’s my son.” Several attempts were made to provide the location but Sergeant Maisonet could not be understood because of the noise and chaos in the background. After several requests by the Central Dispatcher to provide the location, Sergeant Maisonet finally indicated that the location was on Morris Avenue but that he did not know the address. The Central Dispatcher continued asking for the address and about a minute into the recording an unknown male officer supplied the address as § 87(2)(b). Shortly thereafter Sergeant Maisonet indicated that the location was § 87(2)(b).

Approximately one minute later, a male officer identifying himself as the 46th Precinct Lieutenant indicated that he was responding to the location. An unknown male officer asked for the location to be repeated and another unknown male officer indicated that there were already several units at the scene. Another unidentified male officer told the Central Dispatcher to decrease the number of responding officers and then about thirty seconds later an unknown male officer indicated that no further units were needed.

Approximately one minute later an unknown male officer indicated that four people were arrested at the location and shortly thereafter the 46th Precinct Lieutenant indicated that everything was under control and that the officers were resuming patrol. Sergeant Maisonet requested the under time and it was provided as 7:48 p.m. (encl. 120 – 123).

Complaint Reports and Arrest Reports

The complaint report and arrest reports for § 87(2)(b) and § 87(2)(b) (encl. 124 – 131) were prepared by PO Christopher Delgrosso, who was not at the scene of the arrests. They indicated that PO Delgrosso was informed by PO Donnelly and PO Bracconeri that the defendants intentionally prevented police officers from performing their duty by physical force and interference. The defendants also intentionally prevented the officers from effecting an authorized arrest by physically resisting. They were charged with § 87(2)(b). Physical force was used to “restrain/control/remove” them.

Medical Treatment of Prisoner Report

The 46th Precinct and Patrol Borough Bronx were unable to locate § 87(2)(b) s or § 87(2)(b) s Medical Treatment of Prisoner Reports (encl. 251 – 252).

46th Precinct Command Log

The command log for the 46th Precinct (encl. 132 – 133) indicated that § 87(2)(b) and § 87(2)(b) were arrested by PO Donnelly and arrived at the 46th Precinct stationhouse at 7:50 p.m. § 87(2)(b) was arrested for § 87(2)(b) § 87(2)(b) and § 87(2)(b) were arrested for § 87(2)(b) All of their physical and mental conditions were noted as apparently normal.

46th Precinct Daily Vehicle Assignment Sheet

The 46th Precinct daily vehicle assignment sheet indicated that marked van 5711 and unmarked vans 8390 and 8386 were in operation (encl. 149).

46th Precinct Roll Call

The 46th Precinct Tour 3 Roll Call (encl. 134 – 148) indicated that PO Donnelly and PO Bracconeri were assigned to Impact in marked van 8610 with PO Anthony Donato (PO Donnelly, PO Bracconeri and Sergeant Maisonet denied that PO Donato worked with them). There is no indication who Sergeant Maisonet worked with, although he was assigned as the Impact supervisor.

Sergeant Alejandro Rivera, PO Victor Ceden, PO Geceila Carrasquillo, PO Elizabeth Duran and PO William Ortiz were assigned to marked van 5711 and were assigned to housing conditions. PO Major, PO Israel Oriol and PO Maribeth Bradley were assigned to conditions in unmarked van 8386. Sergeant Gonzalez, PO Edwin Jerez, PO Adam Concepcion, PO Gagliardi, PO Baaith, PO Mateo and PO Zambrano were assigned to SNEU, however there was no indication to which vehicles they were assigned. No other officers were assigned to plainclothes units or vans.

MOS Photos

The MOS photos for all of the white male officers on the 46th Precinct tour 3 roll call were requested and provided. Only PO Okeeffe's photo shows him to have hair that appears red (encl. 99).

Patrol Borough Bronx Task Force Roll Call

All of the officers assigned to Patrol Borough Bronx Task Force were assigned to posts inside of the confines of the 40th Precinct (encl. 150 – 152).

Patrol Borough Bronx Anti-Crime

The roll call for Patrol Borough Bronx Anti-Crime (encl. 153 – 156) did not note which vehicles were vans. The only group of officers working together who conformed to § 87(2)(b) s description of two white males and a black male were Sergeant Michael Raso, PO Craig Emhardt and PO Sheldon Smith, who were assigned vehicle 8431.

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[redacted]
[redacted]
- [redacted]
[redacted]

Status of Civil Proceedings

- [§ 87(2)(b)] and [§ 87(2)(b)] have not filed a Notice of Claim with the City of New York as of March 20, 2012, with regard to the incident (encl. 245).

Civilians Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[redacted]
- [redacted]
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Civilian(s) CCRB History

- This is the first CCRB complaint filed by [§ 87(2)(b)]
and [§ 87(2)(b)] (encl. 23 – 26).

Subject Officer(s) CCRB History

- Sergeant Maisonet has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 19).
- PO Donnelly has been a member of the service for one year and there are no substantiated CCRB allegations against him (encl. 20 – 21).
- PO Bracconeri has been a member of the service for one year and there are no substantiated CCRB allegations against him (encl. 22).

Conclusion

Identification of Subject Officers

- Sergeant Maisonet acknowledged being involved in the incident. Additionally, he fit the description that § 87(2)(b) provided for the officer who yelled, “What the fuck is going on over here.” § 87(2)(g)
- PO Donnelly was § 87(2)(b)s and § 87(2)(b)s arresting officer and acknowledged interacting with both of them. He fit the description provided by § 87(2)(b) for an officer who used force to arrest him. He also fit the description provided by § 87(2)(b) as the officer who punched her in the face. § 87(2)(g)
- PO Bracconeri acknowledged interacting with § 87(2)(b). He also fit the description that § 87(2)(b) provided for an officer who used force to arrest him. § 87(2)(g)
- § 87(2)(b) could not describe the third officer who used force against him. § 87(2)(g)
- § 87(2)(b) did not provide a formal statement to the CCRB. § 87(2)(g)
- § 87(2)(b) alleged that a big black male who was bald, in his 30s, wore plainclothes and was assigned to a van used discourteous language towards her. She also alleged that the driver of the van, a bald white male in plainclothes who seemed to be the senior officer and was “big and fat” and “had a big belly” also used discourteous language towards her. § 87(2)(b) did not know the officers’ names or command and could not recall the van number. None of the interviewed officers knew who transported § 87(2)(b) although the officers who responded to the incident indicated that many officers from various commands responded to the incident. Additionally, there was no notation in the command log or the SPRINT report regarding who transported her to the precinct. The SPRINT report also failed to note which units responded to the incident. All of the officers identified as working in vans from the 46th Precinct either did not respond to the incident, did not fit the description provided by § 87(2)(b) or worked in uniform. Additionally, the officers assigned to Patrol Borough Bronx Task Force did not work in the confines of the 46th Precinct and the officers assigned Patrol Borough Bronx Anti-Crime did not match the descriptions provided by § 87(2)(b) § 87(2)(g)
- § 87(2)(b) described the officer who threatened to arrest her as a 5’3” tall male with “fiery” red hair and a red mustache who had a small to average body build. MOS photos requested from the 46th Precinct indicated that the only white male officer appearing to have red hair was PO Okeeffe. PO Okeeffe did not work at the time of the incident, however. Additionally, officers assigned to Patrol Borough Bronx Task Force did not work in the confines of the 46th Precinct. § 87(2)(g)

- § 87(2)(g)
- § 87(2)(b) and § 87(2)(b) alleged that several officers drew their weapons. § 87(2)(b) alleged that one officer drew his weapon. However, none of them could provide any descriptions of these officers. § 87(2)(f)

Investigative Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(b) alleged that § 87(2)(b) was pushed into a brick wall and that PO Donnelly banged his head against the floor three times. § 87(2)(b) alleged that officers kicked and hit § 87(2)(b) and § 87(2)(b) alleged that officers were “beating” § 87(2)(b). § 87(2)(b) alleged that § 87(2)(b) was punched in the face and kicked by officers and § 87(2)(b) alleged that § 87(2)(b) was thrown against a vehicle, “beaten” and dragged on the floor. § 87(2)(g) § 87(2)(b) did not corroborate any of these allegations § 87(2)(g)

§ 87(2)(b) alleged that Sergeant Maisonet punched § 87(2)(b) in the face. However, § 87(2)(b)'s description of the officer who punched her in the face did not match the appearance of Sergeant Maisonet. § 87(2)(g)

§ 87(2)(b) alleged that officers hit § 87(2)(b) with a “cane” and threw her to the floor. § 87(2)(b) alleged that an officer hit § 87(2)(b) with a baton. § 87(2)(g) § 87(2)(b) did not corroborate these allegations § 87(2)(g)

Allegation A – Discourtesy: In front of § 87(2)(b) in the Bronx, Sergeant Raul Maisonet spoke obscenely to § 87(2)(b)

§ 87(2)(b) alleged that Sergeant Maisonet walked into the courtyard, banged his baton on the ground and yelled, “What the fuck is going over on here?” None of the other civilians made this allegation. Sergeant Maisonet denied making this statement. PO Bracconeri, the only other officer in a position to hear the comment, did not recall Sergeant Maisonet using this language. § 87(2)(g)

§ 87(2)(b) it is undisputed that immediately before Sergeant Maisonet entered the courtyard, § 87(2)(b) was involved in a fight with three or four other males that was broken up by other civilians at the scene. It is also undisputed that there were numerous people in the courtyard of the building at the time. Sergeant Maisonet, PO Donnelly and PO Bracconeri indicated that after being notified regarding a fight, they saw a large, loud disorderly crowd in the courtyard and they were not sure who was involved in the fight.

In Police Department v. Sergeant Ray Woods, the findings noted that the “court has held that the use of profanity in intense street enforcement situation is not a disciplinary offense.” Police Department v. Sergeant Ray Woods, OATH case 78518/09, December 22, 2003 (encl. 1 – 16). § 87(2)(g)

Allegation B – Force: In front of § 87(2)(b) in the Bronx, PO Eugene Donnelly used physical force against § 87(2)(b) and § 87(2)(b)

Allegation C – Force: In front of § 87(2)(b) in the Bronx, PO Ryan Bracconeri used physical force against § 87(2)(b)

Allegation D – Force: In front of § 87(2)(b) in the Bronx, An officer used physical force against § 87(2)(b)

§ 87(2)(b) stated that he approached PO Donnelly while pointing at three males who he had fought with. § 87(2)(b) indicated that he stopped when he was told to, but “glided his hand over his [own] chest,” prompting PO Donnelly to grab him by the waist to “slam” him to the ground. § 87(2)(b) maintained his balance to resist being taken to the ground. PO Bracconeri then “tackled” § 87(2)(b) who did not fall and only stumbled a few steps. An unknown officer then tripped § 87(2)(b) and he fell face down to the ground where he was handcuffed. Although § 87(2)(b) denied making contact with PO Donnelly before PO Donnelly grabbed him, he acknowledged that he resisted the officers’ efforts to take him to the ground. § 87(2)(b) alleged that, while PO Donnelly struggled with § 87(2)(b) she put her hand on PO Donnelly’s shoulder and he turned around and punched her in the face. § 87(2)(b) did not allege that any other force was used against her. § 87(2)(b) stated that the punch caused swelling and a bump on her jaw, which she described as a “blood clot” that her dentist said was permanent. However, because § 87(2)(b) did not provide the proper information, no medical records could be requested from her dentist and no Medical Treatment of Prisoner Report could be found in regards to her arrest. She did not go to a hospital for the injury. § 87(2)(b)’s arrest photograph did not reveal any significant injuries.

§ 87(2)(b) indicated that § 87(2)(b) resisted the officers’ attempts to bring him to the ground and stood against a wall saying, “Is that all you got?” § 87(2)(b) stated that § 87(2)(b) resisted arrest and § 87(2)(b) noted that § 87(2)(b) “scuffled” with the officers and that they had a “hard time subduing” § 87(2)(b). According to the ambulance call report for § 87(2)(b) he had abrasions on his elbow and right knee that had “mild bleed[ing].” § 87(2)(b) told the EMTs, “I’m ok,” and refused further medical treatment. Pictures taken during § 87(2)(b)’s interview showed that he had abrasions to his left elbow, left temple and right knee. § 87(2)(b) indicated that § 87(2)(b) grabbed the officers who struggled with § 87(2)(b) in an attempt to get them off of him. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

PO Donnelly indicated that § 87(2)(b) came towards the three males in an aggressive manner with his fists clenched and that when PO Donnelly prevented him from getting to the other males he “punched” PO Donnelly in the chest. When PO Donnelly tried to arrest § 87(2)(b) he violently resisted arrest, leading to a long struggle to subdue him. PO Bracconeri and Sergeant Maisonet indicated that § 87(2)(b) pushed PO Donnelly and corroborated PO Donnelly’s account that he violently resisted arrest. PO Donnelly and PO Bracconeri indicated that while they struggled with § 87(2)(b) § 87(2)(b) and § 87(2)(b) jumped on their backs to prevent them from arresting him. Sergeant Maisonet confirmed this, but did not see the rest of the interaction. PO Donnelly and PO Bracconeri indicated that PO Donnelly had to stop struggling with § 87(2)(b) to deal with § 87(2)(b) and § 87(2)(b). PO Bracconeri did not see the rest of PO Donnelly’s interaction with § 87(2)(b) or § 87(2)(b). PO Donnelly could not recall what force he used against § 87(2)(b) but indicated that it was “the minimum amount of force necessary” to get her off of his back and away from PO Bracconeri. PO Donnelly indicated

According to Patrol Guide Section 203-11 (encl. 17 – 18), “Only that amount of force necessary to overcome resistance will be used to effect an arrest.” § 87(2)(g)

| Age Group | Gender | Percentage Vaccinated |
|-----------|--------|-----------------------|
| 18-24 | Male | ~15% |
| 18-24 | Female | ~10% |
| 25-34 | Male | ~25% |
| 25-34 | Female | ~20% |
| 35-44 | Male | ~35% |
| 35-44 | Female | ~30% |
| 45-54 | Male | ~45% |
| 45-54 | Female | ~40% |
| 55-64 | Male | ~55% |
| 55-64 | Female | ~50% |
| 65-74 | Male | ~65% |
| 65-74 | Female | ~60% |
| 75-84 | Male | ~75% |
| 75-84 | Female | ~70% |
| 85+ | Male | ~85% |
| 85+ | Female | ~80% |

Allegation E – Force: In front of § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation F – Discourtesy: In front of § 87(2)(b) and en route to the 46th Precinct stationhouse in the Bronx, officers spoke obscenely to § 87(2)(b)

Allegation G – Abuse of Authority: In front of § 87(2)(b) in the Bronx, an officer threatened to arrest § 87(2)(b)

Allegation H – Abuse of Authority: In front of § 87(2)(b) in the Bronx, officers drew their guns.

§ 87(2)(g)

Team: _____ :

Investigator: _____

Signature _____ Print _____ Date _____

Supervisor: _____

| | | |
|-----------------|-------|------|
| Title/Signature | Print | Date |
|-----------------|-------|------|

Reviewer: _____
 Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date